

BEFORE THE IDAHO BOARD OF TAX APPEALS

DONALD AND TWILA CLAGG,)	
)	
Appellants,)	APPEAL NO. 15-A-1201
)	
v.)	FINAL DECISION
)	AND ORDER
CANYON COUNTY,)	
)	
Respondent.)	
)	
)	
)	

RESIDENTIAL PROPERTY APPEAL

This appeal is taken from a decision of the Canyon County Board of Equalization denying the protest of valuation for taxing purposes of property described by Parcel No. 372100000. The appeal concerns the 2015 tax year.

This matter came on for hearing October 22, 2015 in Caldwell, Idaho before Board Member Leland Heinrich. Attorney Martin Hendrickson appeared at hearing for Appellants. Gene Kuehn represented Respondent.

Board Members David Kinghorn, Linda Pike and Leland Heinrich participated in this decision.

The issue on appeal concerns the market value of an improved residential property.

The decision of the Canyon County Board of Equalization is affirmed.

FINDINGS OF FACT

The assessed land value is \$36,510, and the combined value of the improvements is \$160,200, totaling \$196,710. Appellants agree with the value of the improvements, however, contend the land value should be increased to \$37,210.

The subject property is a 2.03 acre rural parcel located near Wilder, Idaho. The property is improved with a 3,332 square foot residence and some outbuildings. Constructed in 1957, the residence includes four (4) bedrooms and two (2) bathrooms.

Appellants explained the current assessment included a change in property category for a .10 acre portion of subject from *Category 12H - rural residential* to *Category 19 - public right of way/waste*. The change concerned a 15 foot wide¹ gravel roadway running through the northern portion of the subject lot. Prior to 2015, subject's assessment notice did not include a public right of way component and Appellants contended the change should not have been made for the current assessment year. Appellants argued the roadway was not a public right of way, but rather a private drive which provides access to subject and several nearby parcels. In Appellants' view, the land is being used so should not be categorized as waste. In the alternative, Appellants contended if the roadway were found to be a public right of way, the width should be restricted to the 15 feet which represents the traveled portion of the road.

Respondent stated the gravel roadway should have been assessed as waste in prior years, but was erroneously missed. Upon learning of the error for this year's assessment, the category change was made and a 50 foot wide portion of subject was designated as waste, with zero value. Respondent explained the 50 foot width was used because that figure was reflected in the county's records.

Respondent also offered information concerning three (3) improved sales from 2014 in support of subject's valuation. The sale properties were generally similar to subject in terms of square footage, age, bedroom and bathroom counts, lot size, and rural location. Sale prices ranged from \$207,650 to \$225,000, or between \$64.90 and \$69.22 per square foot. Subject was assessed at \$196,710, or \$59.25 per square foot.

¹The width of the gravel roadway is one issue currently in litigation. Appellants contend the roadway is 15 feet wide, and the highway district contends the easement is 50 feet wide.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value, or as applicable exempt status. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

The issue in this appeal centers on the assessment treatment of a gravel roadway which traverses the northern portion of the subject property. Appellants advanced two (2) arguments in this regard, which will be addressed in turn. Firstly, Appellants contended the roadway was a private driveway providing access to subject and a few other parcels, not a public right of way. While there may be some legal ramifications related to whether the roadway is private or public, the distinction makes no difference in the context of property assessment, because both are considered waste and are assigned a value of zero. The fact subject's prior assessment notices did not include a waste category is also of no consequence here, where we are concerned solely with subject's 2015 assessment. The roadway, whether public or private, exists and must be assessed accordingly, as waste. Respondent properly added the waste component to subject's assessment when the issue came to light.

Appellants alternatively argued if the roadway was deemed a public right of way, the width should be restricted to 15 feet rather than the 50 foot width reflected on the assessment notice. Appellants explained the gravel roadway is actually 15 feet wide, and reasoned subject's assessment should reflect such. Respondent relied on the county records for the 50 foot width it used. Determining the width of the easement is not for this Board to decide. Rather it is a question best suited for the courts to address. Indeed, the issue is currently in litigation. Even

if the Board were to consider the issue, the evidentiary record is insufficient to make a finding. Appellants provided several pages of a property survey from 1979 which depicts a 15 foot wide roadway, however, documentation regarding the easement itself was not offered, nor information about when, or if, such easement was ever recorded. A presumption of correctness attaches to official county records, which in this case indicated a 50 foot easement/roadway. Such presumption was not overcome in this instance. As a result, the Board finds no error in the 50 foot figure used by Respondent.

Idaho Code § 63-511 requires Appellants prove error in subject's assessment by a preponderance of the evidence. As Appellants did not contest subject's value, or otherwise demonstrate error in the assessment, the Board finds the burden of proof not satisfied.

Based on the above, the decision of the Canyon County Board of Equalization is affirmed.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Canyon County Board of Equalization concerning the subject parcel be, and the same hereby is, AFFIRMED.

DATED this 19th day of February, 2016.